

REMARKS

Reconsideration is respectfully requested in view of the amendments and remarks made herein.

Claims 1-10 are pending and stand rejected.

Claims 1-10 stand rejected under 35 USC 103(a) as being unpatentable over Lambrecht, (USP No. 6,181,800 B1) in view of Thomas et al. (USP No. 7,065,498).

A claimed invention is prima facie obvious when three basic criteria are met. First, there must be some suggestion or motivation, either in the reference themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine the teachings therein. Second, there must be a reasonable expectation of success. And, third, the prior art reference or combined references must teach or suggest all the claim limitations.

As indicated by the Office Action Lambrecht fails to teach a method for a service provider to distribute an audio signal to a listener, as claimed in claim 1. Further, Lambrecht fails to teach the limitation of "allowing assess of the personalized audio signal to said listener," as amended in claim 1. Claims 5 and 10 recite similar limitations.

The addition of Thomas fails to cure the infirmities of Lambrecht. The Office Action indicates that Thomas teaches the above limitations in col. 5, lines 15-20. Applicants respectfully disagree. In this section, Thomas teaches a client and server that exchange authentication certificates and establish encryption protocols to use for further communication protocol and searches or creates a customer file. Thomas does not use a changed or personalized audio signal to allow access. Moreover, there would be no reason to do so, since access to

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content in Thomas is determined via authentication certificates and encryption protocols.

The Office Action further indicates that the limitation of "playing back said *changed* audio signal if said detected first listener parameters identify a listener being identical to the listener identified by said second listener parameters," is shown in Lambrecht in col. 5, lines 61-63 and fig. 1. Applicants respectfully disagree. In this section Lambrecht teach how the HRTF is approximated and not whether to play back the "changed audio signal" as claimed in claim 5.

Accordingly, the cited references fails to render the obvious the subject matter recited in claim 1 because the combined references fails to teach or suggest all the elements recited in claim 1. Independent claim 5 and 10 recite similar limitations.

A particular advantage of the present invention is that the method provides audio distribution whereby the risk of unauthorized copying of distributed signals comprising audio data is reduced, as further described in the specification on page 3, lines 21-28:

... even if the audio data could be copied technically, the resulting sound experience is never optimal for anyone but the original listener. Further, after downloading the audio data, the audio has been provided with listener specific information being a kind of watermark, whereby it is possible to identify the listener by comparing identified parameters in audio data with parameters being stored in a database. A further advantage is that the service provider does not need to expose the original audio data to other parties, such as especially copyists. A further use of the invention is that HRTF filtered audio can be sold at a low price and then later the listener might want to buy the original audio.

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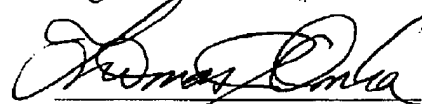
For at least this reason, applicant submits the reason for the rejection has been overcome and respectfully requests withdrawal of the rejection and allowance of independent claims 1, 5 and 10.

With regard to claims 2-4 and 6-9 these claims depend from an independent claim discussed above, which have been shown to be allowable in view of the cited reference. Accordingly, each of claims 2-4 and 6-9 are also allowable by virtue of its dependence from an allowable base claim.

For all the foregoing reasons, it is respectfully submitted that all the present claims are patentable in view of the cited references. A Notice of Allowance is respectfully requested.

Respectfully submitted,

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